

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No. 6243 of 2000

Dated: 02.07.2007

Between:

Dandu Shankaraiah S/o Chinna Subbanna and 36 others

**....
PETITIONERS**

AND

The Special Deputy Collector (LA), Somasila Project Unit.

.....RESPONDENT

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

Writ Petition No.6243 of 2000

Order:

The petitioner approached this court with the following prayer:

“For the reasons stated in the accompanying affidavit, it is prayed that this Hon’ble Court may be pleased to issue writ of Mandamus or any other appropriate writ, declaring that the action of the respondent contained in the enforcement dated 29.10.1999, purporting to reject the applications filed by the petitioners (awardees in Award No. 1 of 1985 dated 27.1.1985) of Kuruguntlapally (V), Vontimitta Mandal, Cuddapah District, is arbitrary and illegal and consequently direct the respondent to refer the applications filed by the petitioners on 22.11.1998 to the civil court for consideration for enhancement of compensation amount under Section 18 of the Land Acquisition Act and to pass such other order or orders as this Hon’ble Court may deems fit and proper in the circumstances of the case.”

Brief facts of the case are that the petitioners filed a Writ Petition No. 17233 of 1987, seeking a direction to the respondent to make a reference under Section 18 of the Land Acquisition Act to determine the enhancement of compensation amount in respect of their lands, wells and trees, acquired for the purpose of Somasila Project, in Kuruguntlapally Village, Sidhout Taluk, Cuddapah District. The Writ Petition was allowed by an order dated 9.6.1989 directing the respondents to make a reference under Section 18 of the Land Acquisition Act. As the respondent has not referred the claim for

enhancement of compensation, petitioners filed a contempt case and ultimately the Contempt Case was closed directing them to file applications under Section 18 of the Land Acquisition Act before the respondents within four weeks. It is their further case that they have submitted representations, seeking reference but their applications were rejected by the respondent by an order dated 29.10.1999 on the ground that the applications were not filed within four weeks and they are time barred. Feeling aggrieved by the same, the present Writ Petition is filed.

The main grievance of the petitioners is that they submitted representations seeking reference under Section 18 of the Land Acquisition Act but the same were rejected by an order dated 29.10.1999 on the ground that the applications were filed beyond the period of thirty days.

Heard the learned counsel for the petitioner as well as the learned Assistant Government Pleader for Land Acquisition.

This court has no doubt granted four weeks time to file their applications, seeking reference under Section 18. The said order was passed on 23.10.1998. However, the said applications were filed only on 22.11.1998, that is after 30 days i.e., beyond the period of four weeks, as fixed by this Court. The petitioners instead of approaching this court should have filed an application in the very same court, seeking extension of time. Further it is not in dispute that the Land Acquisition Officer on the applications filed by others, referred the matter to a competent civil court under Section 18 of the Land Acquisition Act and though the learned counsel for the petitioner could not state as to what has happened in the said matter, but definitely the compensation must have been enhanced. As Section 28-A of Land Acquisition Act provides for filing of an application within three months from the date of the award of the court viz., for enhancement of the compensation made by the competent civil Court, the petitioners

should have filed an application under Section 28-A. As the petitioners are entitled to seek the compensation on par with those whose compensation is enhanced, by virtue of the provision under Section 28-A, no prejudice would have caused, if the said time is extended.

Accordingly, the respondent is hereby directed to refer the applications of the petitioners within a period of thirty days to competent Civil Court under Section 18 of the Land Acquisition and if the matter relating to those three persons was already decided and the compensation is enhanced, the petitioners shall also be paid the same compensation, which was paid to those three persons.

Accordingly, the Writ Petition is disposed of. No order as to costs.

GOPALA KRISHNA TAMADA, J.

Date: 02.07.2007

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